

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE Mr. JUSTICE C.V.RAMULU**

**WRIT PETITION No.12377 of 1998**

Between:

Md. Sultan, S/o Md. Ghouse,  
R/o 12-5-738, Manikeshwarnagar,  
Hyderabad.

**..... PETITIONER**

AND

1 The Presiding Officer,

Addl. Industrial Tribunal Cum Addl. Labour Court,  
Hyderabad.

2 The Depot Manager,  
APSRTC, Ranigunj-II,  
Depot Ranigunj, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly a writ in the nature of Certiorari call for the records relating to the award passed in I.D.No.129/96 dt:6.10.1997 published in G.O.Rt.No.2986, Labour, Employment Training & Factories (Lab-I) Department, dt:7.11.1997 and quash the same by declaring it as illegal and arbitrary and consequently direct the respondents to reinstate the petitioner into service driver with continuity of service, back wages and all other attendant benefits.

**Counsel for the Petitioner: PARTY-IN-PERSON**

**Counsel for the Respondent No.1: GP FOR LABOUR**

**Counsel for the Respondent No.2: Sri V.T.M. PRASAD**

**The Court made the following :**

**ORAL ORDER:**

This Writ Petition is filed by the workman being aggrieved by the Award passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad in I.D.No.129 of 1996, dated 6-10-1997.

The petitioner-workman laid a claim under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before the Labour Court claiming that his services were terminated illegally without properly considering the reasons for his absence. Before the Labour Court, though no oral evidence was adduced by both the parties, on behalf of the workman, documents – Exs.W1 to W5 were marked and on behalf of the Management Exs.M1 to M11 were marked. After a detailed consideration of the entire evidence on record, the Labour Court found that the misconduct against the workman has been proved and he does not deserve any relief and as such, dismissed the claim petition. Aggrieved by the same, the present Writ Petition is filed.

I have heard the petitioner, who appeared as party-in-person, and the learned standing counsel for the respondent-Corporation and also gone through the Award passed by the Labour Court and other material made available on record.

The petitioner while serving as a Driver in the respondent-Corporation absented from duty. On receipt of a report from the Superintendent (Traffic) a charge sheet dated 19-10-1993 was issued to him. It was sent to his residential address, exhibited on the notice board for a period of 7 days and when the petitioner failed to respond, domestic enquiry was ordered. Enquiry notice dated 25-1-1994 was sent calling upon him to attend the enquiry on 8-2-1994. The petitioner failed to attend the enquiry. Therefore, *ex parte* enquiry was held following the Regulations and was found guilty of the charges. Therefore, he was issued with a final show cause notice dated 19-2-1994 proposing the penalty of removal from service and the notice was also affixed on the notice board as per the procedure. Since no explanation was

received, final orders of removal dated 2-8-1994 were issued. Aggrieved by the final order dated 2-8-1994, the petitioner preferred an appeal after the limitation. Therefore, the said appeal was rejected. Aggrieved by the same, the petitioner approached the Labour Court by way of an application under Section 2-A(2) of the Act.

The domestic enquiry conducted was found to be valid. Therefore, the Labour Court proceeded to consider whether the order of removal passed by the respondent-Corporation on the charge of misconduct of unauthorized absence was valid. Xerox copies of the medical certificates (sick certificate and fitness certificate) filed by the petitioner before the Labour Court, no doubt, were issued by a Government Medical Officer; but, it is curious to note that the sick certificate and fitness certificate were issued on the same day i.e., 9-2-1996 the date on which the petitioner alleged to have reported for duty. The Labour Court observed that the timing of issuing and producing both the certificates without any supporting material of the period of sickness and treatment throws any amount of doubt as to the genuineness of these certificates. In fact, after considering the vagueness of the certificates, the Labour Court came to the conclusion that the explanation submitted and the plea taken by the petitioner as to illness and the certificates produced cannot be believed. The Labour Court, after considering the Regulations meticulously, came to the conclusion that the plea of the petitioner that he did not receive the charge sheet, final show cause notice etc., and he was not given any opportunity is all false, since it is not the case of the petitioner that he has not received enquiry notice. So far as the enquiry notice is concerned, it was received by him, but he failed to submit his explanation or participate in the enquiry. Under these circumstances, the Labour Court has rightly refused to interfere with the removal order passed by the Management.

However, the Labour Court did not consider as to the proportionality of the punishment. It was not placed before the Labour Court that the past conduct of the petitioner was so bad that he could not have been considered for any lesser punishment than that of removal from service. Even in the counter filed in this Writ Petition, the management has not stated that the petitioner suffered any punishment earlier for similar misconduct or any other misconduct. Whereas, the petitioner asserted that he had discharged his duties without any complaint from any quarter. The punishment imposed by the disciplinary authority for the misconduct committed

by the petitioner is shockingly disproportionate and deserves to be interfered with. Under these circumstances, this Court was of the opinion that the Management should be asked to find out the feasibility of accommodating the petitioner as a fresh recruit to the post of Driver. On instructions, the learned standing counsel for the respondent-Corporation now states that the Corporation has no objection for the petitioner being directed to be reinstated into service as a fresh driver. The petitioner, who appears as party-in-person also agreed for the same and he has no grievance, if he is appointed as a driver afresh into the service of the respondent-Corporation.

In the result, the impugned Award is set aside. The Writ Petition is allowed in part directing reinstatement of the petitioner into service as a Driver afresh in the respondent-Corporation, within a period of one month from the date of receipt of a copy of this order. No costs.

14-6-205

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Tuesday, Fourteenth day of June Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Presiding Officer, Addl. Industrial Tribunal Cum Addl. Labour Court, Hyderabad.
- 2 The Depot Manager, APSRTC, Ranigunj-II, Depot Ranigunj, Hyderabad.

3 2 CCs to Government Pleader for Labour, High Court Buildings, Hyderabad (OUT)

4 2 CD copies